

Transpacific Stabilization Agreement ~~Original~~ First Revised Page  
FMC No. 203-011223 No. 3

97 12 22

- (b) "Administrative Committee" refers to a standing committee ~~selected from time to time by~~ of the Parties or to an administrative manager or secretariat, however titled, and including any support staff, appointed or engaged from time to time by the Parties to administer the provisions of this Agreement, including functions described in subarticles 6.2, 6.3, 6.7 and 6.9, and to perform such other functions as may be decided, including any functions of an Auditor and/or Secretariat as described herein.
- (c) "Auditor" refers to an ~~accounting firm, free and independent from the influence of any Party or group of Parties, selected by the Parties to perform certain functions as described herein. The Auditor may be the same entity as the Secretariat or person appointed in connection with a capacity management program, if any, per the first paragraph of Article 5 hereof.~~
- (d) "Cargo" refers to cargo placed in containers for shipment on the Parties' vessels in the Trade, measured in twenty foot equivalent units (TEUs) of container capacity. A 20-foot long container is counted as a TEU, a 40-foot container as two TEUs and a 45-foot container as 2.25 TEUs. Oversized and odd-sized cargo are counted based on the number of TEUs that they occupy, for example, (a) a yacht under 20 feet in length is equivalent to one TEU and a yacht over 20 feet in length is equivalent to two TEUs, and (b) any further equivalents will be established by the Parties upon the recommendation of the Administrative Committee.



- (e) "Chairman" refers collectively to the ~~a~~ Chairman,  
~~and the Vice Chairman shall be representatives of~~  
~~Parties to this Agreement who will be designated~~  
, executive director or other senior manager or  
managers, however titled, as may be appointed from  
time to time by the Parties to preside at convene, or  
delegate and approve the convening of, meetings of  
the Agreement, to oversee and direct the activities  
of the Administrative Committee and to perform such  
other leadership and management functions on behalf  
of the Agreement as the Parties may be decided.
- (f) "Effective Date" means the date that the Agreement  
or an amendment thereof becomes effective pursuant to  
the Shipping Act of 1984.
- (g) "FMC" refers to the Federal Maritime Commission or  
any successor federal agency responsible for  
administering the Shipping Act of 1984.
- (h) "Force Majeure" refers to any of the following  
which renders a Party to this Agreement wholly or  
substantially incapable of certain performance, as  
determined by the Arbitrator under Article 13: (a)  
war or hostilities or the imminence thereof, (b)  
the act of any government, or (c) other events  
which are outside the control of a Party and cannot  
be avoided by the exercise of due care.
- (i) "Fund" consists of any liquidated damages, penal-  
ties, and late charges assessed and collected by the  
Secretariat in accordance with Article 5, 7 and

contracts, rules and practices. This Agreement does not authorize any common tariffs. The Parties will, to the extent required by law or as determined by each of them, publish and file their own separate tariffs and service contracts, and/or will participate in the separate tariffs and service contracts of conferences and other authorities effective in the Trade.

5.11 ~~On or before 30 days following each six month period after the Effective Date of this Agreement, or such other period as may be agreed by the Parties and accepted by the FMC (for example, to conform to the Accounting Periods then in effect),~~  
~~the~~ The Chairman, Secretariat, his designee or counsel to the Agreement ~~or other designee of the Parties~~ will file a such reports with the FMC as described in Appendix D to this Agreement are required by FMC regulation, order or request.

5.12 This Agreement does not authorize the Parties to engage in conduct prohibited by the Shipping Act of 1984.

5.13 (a) The Parties are authorized to transmit to and exchange with the Asia North America Eastbound Rate Agreement, FMC No. 202-010776, and the Japan-United States Eastbound Freight Conference, FMC No. 202-011528 (collectively, "Conferences"), and some or all of the members of any of such

APPENDIX D

REPORTING TO THE FMC

The following documents and information will be provided or reported to the FMC in accordance with subarticle 5.11 of this Agreement. All such information will be confidential as provided in § 572.608 of the FMC's regulations.

1. A copy of the accounting reports (without supporting documents) submitted by each Party to the Auditor in compliance with Article 10 of the Agreement or, alternatively, at the option of the Parties, a summary of such accounting reports satisfactory in content to the FMC. All supporting documents submitted or made available to the Auditor, the Secretariat or their representatives will likewise be submitted or made available to the FMC, upon demand.

2. A copy of any analysis or report prepared for the Parties by the Agreement's Market Survey Committee.

3. A copy of any notice issued pursuant to subarticles 5.6 and 5.8 relating to a penalty assessed against any Party for overcarriage.

4. To the extent that any Party has changed or plans to change its vessel deployment, sailing schedules, ports of

~~APPENDIX D (cont'd.)~~

~~call or other aspects of its operations for the purpose of implementing this Agreement, describe these; or state "None."~~

~~5. To the extent that any Party has declined to accept cargo for carriage in its vessels for no other reason than that such carriage would have caused the Party to exceed its Maximum Allowed Capacity under the Agreement, describe the circumstances, including the nature of the cargo and number of TEUs involved; or state "None."~~

~~6. To the extent that any charter arrangements have been entered into between or among the Parties pursuant to subarticle 5.14 and Appendix E of the Agreement, describe each such arrangement, including (a) names of the Charterer and the Owner, (b) TEU measurement of all Cargo carried during an Accounting Period pursuant to such arrangement, (c) sailing date (or, in case the arrangement involves more than one sailing, the commencement date and the termination date) and (d) port(s) from and to which the arrangement applies; or state "None."~~